

Title Guaranty Division Telephonic Board Meeting Minutes

August 15, 2007

Board Members Present:

Deborah Petersen (by phone)
Walter Murphy (by phone)
Mitchell Taylor (by phone)
Pat Schneider (by phone)

Staff Members Present:

Loyd Ogle, TGD Director
Matt White, TGD Deputy Director
Mark Thompson, IFA Attorney
Susan Mock, TGD Administrative Assistant
Tara Lawrence, TGD Legal Intern
Amos Hill, IFA Legal Intern

Others Present:

James Gilliam – Attorney for Iowa Land Title Association
Bill Blue – American Abstract Company
Grant Dugdale – Attorney General's Office
Charles Hendricks (by phone)

Call to Order

Mr. Taylor called the August 15, 2007, telephonic meeting of the Title Guaranty Board of Directors to order at 9:35 a.m.

Consideration of Stay Request Regarding the Charles Hendricks Waiver

Mr. Taylor explained that the purpose of having a telephonic meeting is that all members of the Board are not able to be present at the meeting.

Mr. Ogle noted that the Board approved a written ruling granting Mr. Hendricks waiver to allow him to abstract for TGD without a plant. There had been a motion filed by the ILTA requesting that the Board stay the implementation of that ruling pending judicial review of the decision. A resistance to that motion for stay was filed by Mr. Hendricks. At the last Board meeting, the Board deferred on making a decision on the request for stay because at that point a lawsuit had not been filed. The lawsuit now has been filed. The Board had requested that if a lawsuit was filed, that a hearing would be held within 14 days of the filing of the suit. Mr. Ogle read the relevant paragraph from the Iowa Code regarding judicial stay.

Mr. Gilliam said the best argument for granting the stay of the effect is shown by the way the Board has conducted itself in this application for waiver. The Board has exercised caution and has moved slowly at every stage in the proceedings to this point. Mr. Gilliam argued that the same caution the Board has shown so far demonstrates a need to continue that caution so that they get it right. Any effect that will occur by granting an improper waiver will not be able to be undone after the waiver has been

granted. Mr. Gilliam proposed to Mr. Dugdale an expedited procedure so that they could get the matter to the District Court inside of 60 days.

Mr. Hendricks noted there are a lot of issues ILTA raised on appeal, with the overwhelming majority of them being procedural or constitutional and have nothing to do with his fitness to be an abstractor or the potential damage that might be caused. Mr. Hendricks did not see how public interest can be attained in both granting the waiver and delaying it.

Mr. Murphy said Mr. Hendricks' fitness to be an abstractor was not questioned because he has never made an abstract.

Ms. Petersen said granting of a stay should be something rarely granted and that there are other avenues to pursue.

A motion was made by Mr. Murphy that the Board approve ILTA's request that the Board stay the effect of the ruling granting a waiver to Mr. Hendricks until judicial review of the Board's action is completed. No one seconded the motion. The motion died by lack of a second.

Motion: On a motion by Ms. Schneider, seconded by Ms. Petersen, the Board denied ILTA's request to stay the Board's decision on the Charles Hendricks waiver by a 3-1 roll-call vote. Ms. Petersen: Yes. Mr. Murphy: No. Ms. Schneider: Yes. Mr. Taylor: Yes.

Next Meeting

Mr. Ogle requested that the Board consider meeting the first Tuesday in October instead of the first Tuesday in September as originally planned because of the number of times the Board has met. The Board decided to hold its next meeting on Tuesday, October 2, at 10:00 a.m.

Adjournment

Motion: On a motion by Ms. Petersen, seconded by Ms. Schneider, the Board unanimously voted to adjourn at 10:13 a.m.

Dated this October 2, 2007,

Respectively submitted:

Approved as to form:

Loyd W. Ogle, Director
Title Guaranty Division

Mitch Taylor, Chair
Title Guaranty Division